

## Federal Maritime Commission

## § 502.320

### § 502.313 Reply of complainant.

Complainant may, within twenty (20) days of service of the answer filed by respondent, file with the Commission and serve upon the respondent a reply memorandum accompanied by appropriate affidavits and supporting documents. [Rule 313.]

### § 502.314 Additional information.

The administrative law judge may require the submission of additional affidavits, documents, or memoranda from complainant or respondent. [Rule 314.]

### § 502.315 Request for oral hearing.

In the usual course of disposition of complaints filed under this subpart, no oral hearing will be held, but, the administrative law judge, in his or her discretion, may order such hearing. A request for oral hearing may be incorporated in the answer or in complainant's reply to the answer. Requests for oral hearing will not be entertained unless they set forth in detail the reasons why the filing of affidavits or other documents will not permit the fair and expeditious disposition of the claim, and the precise nature of the facts sought to be proved at such oral hearing. The administrative law judge shall rule upon a request for oral hearing within ten (10) days of its receipt. In the event an oral hearing is ordered, it will be held in accordance with the rules applicable to other formal proceedings, as set forth in subparts A through Q of this part. [Rule 315.]

[49 FR 44369, Nov. 6, 1984; 49 FR 47394, Dec. 4, 1984]

### § 502.316 Intervention.

Intervention will ordinarily not be permitted. [Rule 316.]

### § 502.317 Oral argument.

No oral argument will be held unless otherwise directed by the administrative law judge. [Rule 317.]

### § 502.318 Decision.

(a) The decision of the administrative law judge shall be final, unless, within twenty-two (22) days from the date of service of the decision, either party requests review of the decision by the Commission, asserting as

grounds therefor that a material finding of fact or a necessary legal conclusion is erroneous or that prejudicial error has occurred, or unless, within thirty (30) days from the date of service of the decision, the Commission exercises its discretionary right to review the decision. The Commission shall not, on its own initiative, review any decision or order of dismissal unless such review is requested by an individual Commissioner. Any such request must be transmitted to the Secretary within thirty (30) days after date of service of the decision or order. Such request shall be sufficient to bring the matter before the Commission for review. [Rule 318.]

(b) If the complainant is awarded reparations pursuant to section 11 of the Shipping Act of 1984, attorney's fees shall also be awarded in accordance with § 502.254 of this part. [Rule 318.]

[49 FR 44369, Nov. 6, 1984, as amended at 52 FR 6332, Mar. 3, 1987]

### § 502.319 Date of service and computation of time.

The date of service of documents served by the Commission shall be that which is shown in the service stamp thereon. The date of service of documents served by parties shall be the date when the matter served is mailed or delivered in person, as the case may be. When the period of time prescribed or allowed is ten (10) days or less, intermediate Saturdays, Sundays, and holidays shall be excluded from the computation. [Rule 319.]

### § 502.320 Service.

All claims, resubmitted claims, petitions to intervene and rulings thereon, notices of oral hearings, notices of oral arguments (if necessary), decisions of the administrative law judge, notices of review, and Commission decisions shall be served by the administrative law judge or the Commission. All other pleadings, documents and filings shall, when tendered to the Commission, evidence service upon all parties to the proceeding. Such certificate shall be in substantially the following form:

#### *Certificate of Service*

I hereby certify that I have this day served the foregoing document upon all parties of

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record in this proceeding by [mailing, delivering to courier, or delivering in person], a copy to each such person in sufficient time to reach such person on the date the document is due to be filed with the Commission.

Dated at \_\_\_\_\_ this  
19\_\_\_\_ day of \_\_\_\_\_,

(Signature) \_\_\_\_\_  
(For) \_\_\_\_\_

[Rule 320.]

**§ 502.321 Applicability of other rules of this part.**

Except as specifically provided in this part, rules in subparts A through Q, inclusive, of this part do not apply to situations covered by this subpart. [Rule 321.]

[64 FR 7812, Feb. 17, 1999]

**Subpart U—Alternative Dispute Resolution**

SOURCE: 66 FR 43513, Aug. 20, 2001, unless otherwise noted.

**§ 502.401 Policy.**

It is the policy of the Federal Maritime Commission to use alternative means of dispute resolution to the fullest extent compatible with the law and the agency's mission and resources. The Commission will consider using ADR in all areas including workplace issues, formal and informal adjudication, issuance of regulations, enforcement and compliance, issuing and revoking licenses and permits, contract award and administration, litigation brought by or against the Commission, and other interactions with the public and the regulated community. The Commission will provide learning and development opportunities for its employees to develop their ability to use conflict resolution skills, instill knowledge of the theory and practice of ADR, and to facilitate appropriate use of ADR. To this end, all parties to matters under this part are required to consider use of a wide range of alternative means to resolve disputes at an early stage. Parties are encouraged to pursue use of alternative means through the Commission's Office of Consumer Affairs and Dispute Resolution Services in lieu of or prior to initi-

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ating a Commission proceeding. All employees and persons who interact with the Commission are encouraged to identify opportunities for collaborative, consensual approaches to dispute resolution or rulemaking.

[66 FR 43513, Aug. 20, 2001, as amended at 70 FR 7669, Feb. 15, 2005; 70 FR 44867, Aug. 4, 2005]

**§ 502.402 Definitions.**

(a) *Alternative means of dispute resolution* means any procedure that is used to resolve issues in controversy, including, but not limited to, conciliation, facilitation, mediation, fact-finding, minitrials, arbitration, and use of ombuds, or any combination thereof;

(b) *Award* means any decision by an arbitrator resolving the issues in controversy;

(c) *Dispute resolution communication* means any oral or written communication prepared for the purposes of a dispute resolution proceeding, including any memoranda, notes or work product of the neutral, parties or nonparty participant; except that a written agreement to enter into a dispute resolution proceeding, or final written agreement or arbitral award reached as a result of a dispute resolution proceeding, is not a dispute resolution communication;

(d) *Dispute resolution proceeding* means any process in which an alternative means of dispute resolution is used to resolve an issue in controversy in which a neutral is appointed and specified parties participate;

(e) *In confidence* means, with respect to information, that the information is provided—

(1) With the expressed intent of the source that it not be disclosed; or

(2) Under circumstances that would create the reasonable expectation on behalf of the source that the information will not be disclosed;

(f) *Issue in controversy* means an issue which is material to a decision concerning a program of the Commission, and with which there is disagreement—

(1) Between the Commission and persons who would be substantially affected by the decision; or

(2) Between persons who would be substantially affected by the decision;

(g) *Neutral* means an individual who, with respect to an issue in controversy,